

PROTECTION OF ANIMAL RIGHTS IN INDIA

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Abstract: India is one of the most bio-diverse countries in the world and consists of 2.4 % of the world's land area that accounts for 7-8% of all recorded species including 45,000 species of plants and 91,000 species of animals. It is a home of many animal species ranging from Bengal tigers to the Great Indian rhinoceros. Animal species are considered essential components of the environment. They serve many purposes like domestication and act as workers and resources that help humans to a great extent. The Constitution of India is a document that expresses the constitutional principles, outlines the rights and duties of its citizens, establishes the guiding principles of its state policy, and provides structure and powers to institutions of government. Indian Constitution recognizes that animals have inherent sanctity and prescribes that citizens have a duty to protect them and treat them with dignity.

Keywords: Animal Rights, The Wildlife Protection Act, Prevention of Cruelty to Animals

1.0 Introduction

India is one of the most bio-diverse countries in the world and consists of 2.4 % of the world's land area that accounts for 7-8% of all recorded species including 45,000 species of plants and 91,000 species of animals. It is a home of many animal species ranging from Bengal tigers to the Great Indian rhinoceros. Animal species are considered essential components of the environment. They serve many purposes like domestication and act as workers and resources that help humans to a great extent. The Constitution of India is a document that expresses the constitutional principles, outlines the rights and duties of its citizens, establishes the guiding principles of its state policy, and provides structure and powers to institutions of government. Indian Constitution recognizes that animals have inherent sanctity and prescribes that citizens have a duty to protect them and treat them with dignity.

An international animal welfare organization, the World Animal Protection, has developed the Animal Protection Index (API), in which 50 nations are evaluated based on their animal welfare policies. The index establishes which country has the highest score (A) and lowest score (G). India was rated 'C' on the Animal Protection Index released in 2020, alongside Spain, France, Germany, and Poland. Meanwhile, nations like the United Kingdom, Austria, Switzerland, Netherlands, Sweden, and Denmark were ranked in the 'B' band. With a rating of 'G', Iran was the weakest country, and no country got a band score of A. While India's performance in the 2020 Animal Protection Index was average, the scores suggested that the animal welfare laws in place in India are quite weak as compared to other nations and that the inefficiency of the current legal framework is a significant reason for the increasing number of animal cruelty cases in the country.

According to Article 51(g) of the Indian Constitution, Indian citizens shall be obliged to preserve and improve the environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures. This article focuses on various rights of the animals in India that one might not be aware of.

Animals are also essential for maintaining the ecological balance on the earth. In recent years, the protection and welfare of animals have taken a prominent place in the country. Every year billions of animals are exploited by humans for their benefit and put them in a position to suffer harm and pain. Various legislation such as the Prevention of Cruelty Act, 1960, and the Wildlife Protection Act, 1972 are there to protect the animal life on earth. The constitution of India has also recognized the sanctity of animal life and laid down protection and treatment of animals with dignity as a fundamental duty of the citizens of India. This article will focus on the various legislation and laws for wildlife protection.

2.0 Need for Protection of Animal Rights

Many people in India eat meat, wear leather, and attend zoos and circuses. There are many of us who buy dogs and birds as pets and then keep them in cages. It is normal for humans to wear wool and silk, eat chicken burgers and do fishing-related activities. However, we never give consideration to the effects that these actions will have on animals. The fundamental principle of equality, according to Peter Singer in his book, does not require equal or

identical treatment, but it does require equal consideration. The distinction is particularly significant when considering animal rights.

Animals deserve to be free from suffering and exploitation. They also can experience pain, pleasure, fear, frustration, loneliness, and maternal love. Most animal rights activists believe and consider animals to possess an inherent value. It is important to recognize that animal rights is not a philosophy, but is also part of a broader social movement that confronts society's traditional view that animals exist solely for human consumption

The only thing that can allow us to deny other people the rights that we expect to enjoy for ourselves, is prejudice. No matter what the reason is, whether it is based on race, gender, sexual orientation, or species, it is believed that prejudice is morally wrong. For example, it would be unreasonable to eat a pig if someone would not eat a dog. There is no difference in the ability of dogs and pigs to feel pain. It is prejudice based on species that allows us to consider one animal to be our companion and the other as our meal.

It has been held in the case of *Animal Welfare Board of India v. Nagaraja and Ors.*(2014) that the animals also possess honour and dignity and that they cannot be arbitrarily deprived of them. According to the Court, the rights and privacy of the animals need to be protected from unlawful attacks. Accordingly, the right to dignity was extended and is not just limited to human beings.

3.0 Laws for the Protection of Animals in India

It is necessary to treat animals with kindness and deference. Indian Constitution has certain provisions for the protection of animal rights. There are also many statutes in India for the protection of both wild and domestic animals.

4.0 Constitutional Protection for Animal Rights

According to the Indian Constitution, it is everyone's responsibility to care for and preserve the country's natural resources, such as its forests, lakes, rivers, and animals. However, many of these provisions come in the DPSPs and Fundamental Duties – which cannot be enforced unless there is statutory backing.

Article 48 A states that the State shall endeavour to protect and improve the environment and safeguard the forests and wildlife of the country.

Article 51A(g) states it to be a duty of every citizen of India “to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures.”

Further, the State and Concurrent List have been assigned the following items about animal rights. The States are given the authority to “preserve, maintain and improve stock and prevent animal diseases and enforce veterinary training and practice,” according to State List Item 14. The Concurrent List contains legislation that both the Centre and the States may pass

- “Prevention of animal cruelty,” which is mentioned in item 17.
- “Protection of wild animals and birds” which is mentioned as item 17B.

5.0 Important Acts in India for the Protection of Animals

- Indian Penal Code, 1860
- The Prevention of Cruelty Act, 1960
- Wildlife Protection Act, 1972

5.1 The Indian Penal Code, 1860

Section 428 and 429 of the Indian Penal Code provides legal penalty for the offenses related to maiming and killing of animals. Section 428 of the Indian Penal Code provides punishment for misconduct of killing or maiming an animal for the value of ten rupees or more. It states that ‘whoever commits the offense of killing, maiming, poisoning, or rendering useless any animal for the rupees of ten or more than shall be punished with the imprisonment for up to ten years or with fine or both. While Section 429 of the Code deals with the penalty for the same offense, but concerning animals worth 50 rupees or upwards. The offense shall be punishable with imprisonment of either description for a term which may extend to five years or with a fine or both.

5.2 The Prevention of Cruelty Act, 1960

The Prevention of Cruelty to Animals Act was enacted by Parliament in the year of 1960. The Act's objective is to prevent the infliction of pain or suffering on animals and amend the laws related to the prevention of cruelty to animals. The word ‘animal’ is defined as ‘any living creature other than a human being’. The most significant part of

the Act is given under chapter II which prescribes the establishment of the Animal Welfare Board of India to protect animals from being subjected to unnecessary pain. The AWBI performs the following functions:

- To advise the central government regarding amendments and rules to prevent unnecessary pain while storing animals for experiments, transporting animals, etc.
- To encourage financial assistance, animal shelters, and rescue homes for old animals.
- To advise the government on medical care and assistance for animal hospitals.
- Imparting education and awareness on animal welfare using books, lectures, posters, advertisements.
- To advise the central government regarding the general matters on animal welfare.

Section 11 of the Prevention of Cruelty Act, provides different variants of cruelty to animals that are:

1. Beating, kicking, overloading, torturing and causing unnecessary injury, harm to any animal;
2. Employing any animal having any disease or unfit to be so employed;
3. Administered any injurious drug or substance wilfully or unreasonably to any animal;
4. Conveying or carrying either in or upon any vehicle in such a way as to subject it to suffering;
5. Confining any animal in any cage or receptacle which does not measure property in height, length, and breadth to permit the animal a reasonable opportunity for move;
6. Keeping an animal for an unreasonable time in any heavy chained or chord;
7. Being an owner fails to provide the animal with sufficient food, water, and shelter;
8. Abandoning an animal without any reasonable care;
9. Wilfully permitting an owned animal to roam on streets or leaving it on the streets to die of disease or disability;
10. Offering an animal for sale which is suffering from pain due to mutilation, starvation, thirst, or other ill-treatment without any reasonable cause;
11. Mutilated or killing any animal by using the methods of strychnine injections;
12. Using an animal as bait for another animal solely for entertainment;
13. Organizing, keeping, or managing any place for animal fighting;
14. Promotes or takes part in any competition wherein the animals are released from captivity for shooting.

However, the Act does not consider cruelty on animals if-

- Dehorning of cattle, castration, or branding of any animal done in a prescribed manner
- Destruction of stray dogs in lethal chambers done in a prescribed manner
- Extermination or destruction of any animal under the authority of any law

If a person committing any acts as mentioned in Section 11 of Prevention of Cruelty to Animal Act,1960 shall be punishable,

- In case of a first offense, with a fine which shall not be less than ten rupees but which may extend to fifty rupees, and;
- In case of a subsequent offense committed within 3 years of the previous offense, with a fine which shall not be less than twenty-five rupees but which may extend to, one hundred rupees with imprisonment for a term which may extend to three months or both.

5.3 The Wildlife Protection Act,1972

In India, the primary laws related to wildlife are found in the Wildlife Protection Act,1972. The Act prohibits the killing, trapping, poaching, poisoning, or harming of any wild animal or bird. This Act is the first legislation that provides a broad list of endangered wildlife species. The provision of this Act applies to various states and regions. It also provides the establishment of wildlife advisory boards for the protection of wildlife in every state to tackle the situation. The provisions for the protection of aquatic life (marine animals), birds, and zoo animals are also covered under the Act. The definition of wildlife under the Act includes any animal, aquatic, or land vegetation that forms part of any habitat.

- The Act provides the establishment of welfare advisory boards (Section 6) and various duties of the boards (Section 8).
- Hunting includes poisoning, killing, trapping any wild animals, or attempting to do so. Carrying or driving any animal for transport purposes that cause injury to any animals or on their body parts, killing the eggs of the reptiles and birds, or disturbing their nest or eggs of the birds and reptiles are such activities that fall under the ambit of hunting. The Act prohibits the hunting of any wild animal

specified in schedules I, II, and III (Section 9). Furthermore, the Act permits the hunting of wild animals in certain cases as provided in Section 11.

- The Act allows the Centre and State governments to declare any area 'restricted' for the wildlife sanctuary, National Park, etc.
- Further, the Act prohibits the transportation of any wild animals, birds, plants except in the cases where permission is taken from the chief wildlife warden or any official authorized by the state government (Section 48 A)
- The purchasing of wild animals from dealers without a license is prohibited under Section 49 of the Act.

6.0 Judicial Interventions for the Protection of Animals

There are many important judgments by the Supreme Court of India in connection with the protection of animals. Some of them are:

6.1 Animal Welfare Board of India v. Nagaraja and Others (2014): Everyone has the right to life and personal liberty, and neither may be taken away from them without a court order, as stated in Article 21. In the 2014 case of Animal Welfare Board of India v. Nagaraja and Others, the Supreme Court expressly decided on Article 21 in favour of animals.

The Apex Court ruled that every species has a legal right to life and safety under the law of the land. The meaning of the word "life" in Article 21 of the Constitution has been augmented, so any disruption of the basic environment, which includes all forms of life, including animal life, and which is necessary for human survival, falls within the meaning of this article.

This article also protects human rights. The term "life," as used by the court, was understood as more than simply existing or surviving, as well as having inherent meaning and maintaining moral principles.

6.2 State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and Ors (2005): In State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat and Ors (2005), the Supreme Court of India ruled that Article 51A was adopted by the Parliament to be read with Articles 48 and 48A, ensuring that all provisions are interpreted by the letter of the law.

7.0 Conclusion

India is a country with diversified culture. It has several wildlife conservation programs that give the utmost importance to environmental protection. Environmental conservation and the protection of wildlife have been deeply rooted in Indian culture. Various legislation was enacted with regards to the protection and conservation of animals. The provisions were specifically designed to recognize the rights of the animals with the rights guaranteed to humans.

Hence, we can easily conclude that there is no inadequacy of laws for safeguarding the interest of animals. However, the main problem is the lack of implementation and administration of these laws. There does not exist strict enforcement of laws with the ever-increasing conflicts arising between animals and humans. Regardless of this, the Indian judiciary has done a great job in dealing with the gaps that exist in animal welfare laws and timely protecting the rights of animals.

8.0 References

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